OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.
ATTORNEYS AT LAW

Docket No.: 204212US0X

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/887,052
Applicants: Bettina MOECKEL, et al.
Filing Date: June 25, 2001
For: NUCLEOTIDE SEQUENCES WHICH CODE FOR THE rpoB GENE
Group Art Unit: 1652
Examiner: HUTSON

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement (4 pp.)

Our check in the amount of **$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Registration No. 24,618

Vincent K. Shier, Ph.D.
Registration No. 50,552

22850

(703) 413-3000 (phone)
(703) 413-2220 (fax)

DOCKET NO.: 204212US0X

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :

Bettina MOECKEL, et al. : GROUP ART UNIT: 1652

SERIAL NO.: 09/887,052 :

FILED: JUNE 25, 2001 : EXAMINER: HUTSON

FOR: NUCLEOTIDE SEQUENCES WHICH CODE FOR THE rpoB GENE

RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the Official Action dated September 26, 2002, Applicants elect, with traverse, Group I, Claims 1-10, 18, 19, 24, 25, 30, 31, 36, 37, 38, 39, 40, 41, 83 and 84, for further prosecution.

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-10, 18, 19, 24, 25, 30, 31, 36, 37, 38, 39, 40, 41, 83 and 84, drawn to an isolated polynucleotide which encodes a protein (SEQ ID NO: 2), vectors and host cells comprising said polynucleotide;

Group II: Claim 11, drawn to an isolated polymerase (SEQ ID NO: 2);

Group III: Claim 12, drawn to an isolated polymerase (SEQ ID NO:4);

Group IV: Claim 13, drawn to an isolated polymerase (SEQ ID NO: 6);

Group V: Claims 14, 15, 20-21, 26, 27, 32, 33, 40, 42, 85 and 86, drawn to an isolated polynucleotide which encodes a protein (SEQ ID NO: 4), vectors and host cells comprising said polynucleotide;

Group VI: Claims 16, 17, 22, 23, 28, 29, 34, 35, 40, 43, 82 and 87, drawn to an isolated polynucleotide which encodes a protein (SEQ ID NO: 6), vectors and host cells comprising said polynucleotide;

Group VII: Claim 44, drawn to Coryneform glutamicum DSM 13994;

Group VIII: Claim 45, drawn to Coryneform glutamicum DSM 13993;

Group IX: Claims 46-53, drawn to a process for producing L-amino acids comprising culturing the host cell of claims 24 or 25, and collecting the L-amino acids;

Group X: Claims 54-69, drawn to a process for producing L-amino acids comprising culturing the host cell of claims 26 or 27, and collecting the L-amino acids;

Group XI: Claims 70-73, drawn to a process for producing L-amino acids comprising culturing the host cell of claim 29, and collecting the L-amino acids;

Group XII: Claims 74 and 75, drawn to a process for screening for polynucleotides which encode a protein having RNA polymerase B β-subunit activity, comprising hybridization with the polynucleotide of claims 1 or 3;

Group XIII: Claim 76, drawn to a process for screening for polynucleotides which encode a protein having RNA polymerase B β-subunit activity, comprising hybridization with the polynucleotide of claim 15;

Group XIV: Claim 77, drawn to a process for screening for polynucleotides which encode a protein having RNA polymerase B β-subunit activity, comprising hybridization with the polynucleotide of claim 17;

Group XV: Claims 78 and 80, drawn to method for detecting a nucleic acid with at least 70% homology to the polynucleotide of claims 1 or 3; and

Group XVI: Claims 79 and 81, drawn to method for producing a nucleic acid with at least 70% homology to the polynucleotide of claims 1 or 3.

Applicants elect, with traverse, Group I, Claims 1-10, 18, 19, 24, 25, 30, 31, 36, 37, 38, 39, 40, 41, 83 and 84, for further prosecution.

Applicants note that the claims of Groups IX, XII, XV, and XVI are directly dependent from the claims of Group I, as such these groups are not separable. Similarly, the claims of Groups X and XIII depend directly from the claims of Group V and the claims of

Groups XI and XIV depend directly from the claims of Group VI, therefore these groups are also not separable.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, MPEP §803 states as follows:

> If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office, particularly in view of the fact that Groups I, V, and VI; Groups II-IV; Groups VII-VIII; Groups IX-XI; and Groups XII-XVI are classified in the same subclasses, respectively. Moreover, Groups I, V, and VI are each drawn to polypeptides having a β-subunit of RNA polymerase B activity. Accordingly, there is no burden in searching all the claims.

For the reasons set forth above, Applicants contend that the Restriction Requirement is improper and should be withdrawn.

Additionally, MPEP §821.04 states:

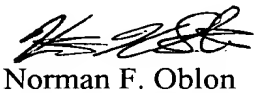
> ...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants respectfully submit that should the elected group be found allowable, non-elected process claims should be rejoined.

Applicants further submit that this application is now in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618

Vincent K. Shier, Ph.D.
Registration No. 50,552

22850

(703) 413-3000
Fax #: (703)413-2220
NFO/VKS
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